

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GARFIELD H. WRIGHT, Petitioner, v. WILLIAM STICKMAN, et al., Respondent.	CIVIL ACTION No. 02-5024
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ORDER

AND NOW, this 10th day of March, 2003, it is **ORDERED** that Petitioner's Objections to Magistrate Judge's Report and Recommendation entered February 24, 2003 (document no. 18) are **DENIED**. As the objections themselves point out, "... his one-year limitation period to file his federal § 2254 habeas petition did not commence until March 26, 1997, when the State Supreme Court denied allowance of appeal." Petitioner's reliance on *Fahy v. Horn*, 240 F.3d 239 (3d Cir. 2001) is misplaced. That was a capital case where the state law was unclear regarding the operation of a procedural filing requirement. There is no such lack of clarity in this case. Counsel for petitioner filed a no-merit letter with regard to his second PCRA petition. To hold otherwise would entail endless extensions of AEDPA's limitation by untimely PCRA petitions. Petitioner was not misled, he was not prevented from timely asserting his federal habeas opportunity and he did not mistakenly and timely assert his rights in the wrong forum. On the facts set forth by petitioner, there is no basis for equitable tolling in this particular case. In the alternative, petitioner makes claims in this petition which were never raised or exhausted in the state court proceedings and hence are barred.

There is no basis to issue a certificate of probable cause of appealability.

BY THE COURT:

MARVIN KATZ, S.J.